THE HON'BLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION No.2138 of 2005

Dated: 19th December 2005

Between:

Yelamanchili Siva Kumar, son of
Y.Prabhakar Rao, Occ: Licensed Tech. Person,
R/o near Mile stone, Gollapudi,
Vijayawada Rural, Krishna District.

…. Petitioner.

And

1. Government of Andhra Pradesh,
rep. by its Secretary, Revenue Department,
Secretariat, Hyderabad and 5 others.

… Respondents.

* * *

ORDER:

This writ petition has been filed by Yelamanchili Siva Kumar assailing the action of the third respondent-Mandal Revenue Officer, Balanagar Mandal, in not conducting the survey for demarcation of Survey Nos.210/1 to 210/4 admeasuring Ac.7-28 cents situated in Moosapet village of Balanagar Mandal.

2. The petitioner claims that he entered into an agreement of sale with Smt. Usha Rani, Sri Sanjay Gopal Saincher, Sri Dhananjay P. Saincher and Sri Vinay Gopal Saincher; legal heirs of late Raja Ratan Gopal. He claims to have submitted an application to the Mandal Revenue Officer-third respondent for demarcation of the land in survey Nos.210/1 to 210/4 admeasuring Ac.7-28 cents situated at Moosapet village of Balanagar Mandal. Since the third respondent has not made the demarcation, he approached this court invoking jurisdiction under Article 226 of the Constitution of India with the prayer stated supra.

3. Third respondent filed counter-affidavit. It is stated in the counter-affidavit that the name of the petitioner is neither recorded as pattadar nor possessor of the land for which he requested for demarcation and therefore, the request of the petitioner cannot be considered. Para 3 of the counter-affidavit reads as follows:

> " At the outset, it is to be submitted that the writ petition is misconceived one and the same is liable to be dismissed with costs. Neither the petitioner nor the executors of the Memorandum of Mutual Understanding have any right or title on the Survey Nos.210/1 to 210/4. As such, this respondent issued Memo dated 13.06.03 to the petitioner informing that on verification of Pahani for the year 2001-2002 that he is neither the pattadar nor possessor over the above survey numbers. Hence the request of the petitioner for demarcation is rejected. As a matter of fact, Sy.No.210/1 was deleted from Moosapet village and Sy.Nos.362 to 373 were included as lands in Kukatpally village. The same was confirmed by the hon'ble Supreme Court in civil Appeal No.2630/1989. Suppressing the above facts, the petitioner has approached the Hon'ble Court with a *mala fide* intention to obtain favourable orders. Since the petitioner has no right or claim over the lands in question and moreover he is not in possession of lands, other allegations made in the writ petition need not be traversed."

4. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue appearing for respondents.

5. Learned counsel for the petitioner submits that since the petitioner entered into an agreement with Smt. Usha Rani and others, he is entitled to get the land demarcated and thus the application filed by him is required to be considered in accordance with law.

6. Learned Government Pleader for Revenue submits that the petitioner is neither pattadar nor possessor of the land for which demarcation has sought for and therefore, the third respondent is justified in not considering his request.

7. A fact remains that the petitioner's name is appears neither in the pattadar column nor in possessor column of the revenue records. In the circumstances, the action of the third respondent cannot be found fault with. The petitioner is at liberty to move an application for demarcation of the land after getting his name mutated in the revenue records as pattadar or possessor.

8. Accordingly, the writ petition is dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Date: 19th December 2005.

BSB